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7 IN THE UNITED STATES BANKRUPTCY COURT
8
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 In Re:

11 DAVID SALMA,

12 Debtor,

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14 LEW JENKINS and LINDA M. JENKINS, as
15 Trustees of the Jenkins Trust U/A/D 1/15/98 and
16 JACK H. FRESKOS, beneficiary of IRA 042640
at Westamerica,

17 Plaintiffs,

v.

18 DAVID SALMA, MARION ZABORSKI,
19 FATON BINAKU, RUBEN PICARDO,
SEATTLE BLOCK, and DOES 1-10,

20 Defendants.

Chapter 7

Adversary Proceeding No. 09-03126

Case No. 09-30863

DEFENDANT DAVID SALMA'S MOTION IN
LIMINE

21
22 William Dunlap's testimony at trial should be excluded pursuant to Fed. R. Civ. P. Rule 37(c)(1)
23 because Plaintiffs never disclosed Mr. Dunlap as an expert in violation of Fed. R. Civ. P. Rule
24 26(a)(2)(A). To the extent Mr. Dunlap's appraisal report is construed as an expert report, the report fails
25 to disclose the six categories of information as required under Fed. R. Civ. P. Rule 26(a)(2)(B)(i)
26 through (vi). Moreover, the appraisal report was not contemporaneously produced at the time of Mr.
27 Dunlap's disclosure as a witness as required under Fed. R. Civ. P. Rule 26(a)(2)(B), notwithstanding the

1 fact that he was never disclosed as an expert witness. Mr. Dunlap has no timely or material information
2 as a fact witness because all of his observations of the Subject Property are in April of 2008, more than
3 two years after the Loan from Plaintiffs to Defendant was made. For the foregoing reasons, Mr.
4 Dunlap's testimony should be excluded from trial.

5 Respectfully submitted this 27th day of August, 2010.
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8 /s/ - Paul Ham
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